

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI**

504 Tavern LLC, et al.,)	
)	
Plaintiffs,)	Case No. 4:14-cv-115
)	
v.)	
)	
Vitti, et al.,)	
)	
Defendants.)	

**DEFENDANT PHILIPP VITTI'S
MOTION TO DISMISS THE AMENDED COMPLAINT**

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Defendant Philipp Vitti (“Vitti”) respectfully moves the Court to dismiss the Amended Complaint for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. Complete diversity does not exist in that Vitti is a citizen of the same state as one of the Plaintiffs. Additionally, the Amended Complaint presents no federal question because Count VIII for “Civil Conspiracy RICO Violation” and Count IX under the Fair Credit Reporting Act fail to state a claim upon which relief can be granted. Dismissal is warranted under Federal Rules of Civil Procedure 12(b)(1), 12(b)(6) and 28 U.S.C. Sections 1331 and 1332.

In further support of this Motion, Vitti files his Suggestions in Support simultaneously herewith.

WHEREFORE, for the reasons stated herein and in his accompanying Suggestions in Support, defendant Philipp Vitti respectfully requests the Court dismiss Counts VIII and IX of Plaintiffs’ Amended Complaint with prejudice for failure to state a claim upon which relief can be granted, and dismiss Plaintiffs’ remaining Amended

Complaint for lack of subject matter jurisdiction, and for all other relief deemed just and proper under the circumstances.

Dated: April 18, 2014

LATHROP & GAGE LLP

By: /s/ Richard D. Rhyne
Richard D. Rhyne (23692)
RRhyne@LathropGage.com
Kate O'Hara Gasper (61198)
kgasper@lathropgage.com
2345 Grand Boulevard, Suite 2200
Kansas City, Missouri 64108-2618
Telephone: 816.292.2000
Telecopier: 816.292.2001

Attorneys for Defendant
Philipp Vitti

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 18th day of April, 2014, a true and accurate copy of the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Richard D. Rhyne
Richard D. Rhyne